



## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, NOVEMBER 03, 2015**

The Council of the City of San José convened in Regular Session at 9:08 a.m. in the Council Chamber at City Hall.

Present: Council Members - Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - Carrasco. (Excused)

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:14 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to initiation of litigation in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to initiation of litigation in one (1) matter. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Clark; Amount of Money or Other Relief Sought: Administrative Appeal. (2) City v. RossDrulisCusenbery Architecture, Inc., et al. Names of Parties Involved: City of San José, RossDrulisCusenbery Architecture, Inc. aka Michael Ross Charles Drulis Architects and Planners, a purported California corporation and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-237767; Amount of Money or Other Relief Sought: Damages according to proof. (3) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (4) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21,

## CLOSED SESSION (Cont'd.)

City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (5) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (6) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (7) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) People of the



## CLOSED SESSION (Cont'd.)

State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (14) San José Retired Employees Association, et al V. City of San José, et al. Names of Parties Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-2680085; Amount of Money or Other Relief Sought: Change to City Medical Plan. (D) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: Property: The Plaza Hotel, 96 S. Almaden Avenue, San José, California; Negotiation Parties: Jacky Morales-Ferrand for the City of San José, Richard Keit for the Successor Agency and Mark Tersini for KT Properties Urban, Inc. Under Negotiation: The Direction will concern price and terms of payment. Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values. (E) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working

## **CLOSED SESSION (Cont'd.)**

Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:01 a.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chamber.

Present: Council Members - Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Peralez, Rocha; Liccardo.

Absent: Council Members - Carrasco. (Excused)

## **INVOCATION**

Raj Bhanot, Sunnyvale Hindu Temple offered the Invocation. (District 10)

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo, accompanied by Students from Lynnhaven Elementary and Queen of the Apostles led the Pledge of Allegiance.

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation to recognize the month of November as National Youth Homelessness and Runaway Prevention Month in the City of San José. (Peralez)**

Mayor Sam Liccardo and Council Member Raul Peralez recognized the month of November as "National Youth Homelessness and Runaway Prevention Month" in San José.

### **1.2 Presentation of a proclamation for "Sikh American Awareness and Appreciation Month" in the City of San José. (Kalra)**

Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Ash Kalra and Council Member Raul Peralez recognized the month of November as "Sikh American Awareness and Appreciation Month" in San José.



## ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Carrasco.)

## CLOSED SESSION REPORT

Mayor Sam Liccardo announced that Walter Katz was appointed Independent Police Auditor.

City Manager Norberto Dueñas disclosed the following Closed Session action of November 3, 2015.

A. Public Employment/Public Employee Recruitment/Appointment Pursuant to Government Code Section 54957:

Department/Agency: Housing Department  
Title: Director  
Name: Jacky Morales-Ferrand

Council Vote: Ayes: Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Noes: None.  
Abstain: None.  
Not Present: Carrasco.

## CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Carrasco.)

### 2.1 Approval of Minutes.

There were none.

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29635 – An ordinance conforming the public right-of-way on Saint John Street between Market Street and San Pedro Street to reflect the existing alignment and width of Saint John Street. CEQA: Exempt, Guidelines Section 153019(c) Existing Facilities, File No. PP15-083.**

Action: Ordinance No. 29635 was adopted. (10-0-1. Absent: Carrasco.)

- 2.2 (b) **ORD. NO. 29637** – An ordinance rezoning the real property located at the northwesterly corner of East Santa Clara Street and North 5<sup>th</sup> Street (33 North 5<sup>th</sup> Street) from the CG Commercial General and R-M Multiple Residence Zoning Districts to the DC Downtown Primary Commercial Zoning District on an approximately 1.4 acre site. CEQA: Addendum, Envision San José 2040 General Final Program EIR (Resolution No. 76041 adopted November 1, 2011), File No. C15-039.

Action: Ordinance No. 29637 was adopted. (10-0-1. Absent: Carrasco.)

- (c) **ORD. NO. 29638** – An ordinance rezoning certain real property located on the east side of Monterey Road, approximately 300 feet south of East Alma Avenue (1420-1600 Monterey Road) from the CG(PD) Planned Development Zoning District to the CG(PD) Planned Development Zoning District on an approximately 19.74 gross acre site. CEQA: Determination of Consistency with the Sun Garden Redevelopment Project Final EIR, (Resolution No. 75929 adopted June 21, 2011), File No. PDC15-037.

Action: Ordinance No. 29638 was adopted. (10-0-1. Absent: Carrasco.)

- (d) **ORD. NO. 29639** – An ordinance pre-zoning certain real property located on the northeast corner of Roehampton Avenue and Story Road from Unincorporated to the PQP Public/Quasi-Public Zoning District on an approximately 0.78 gross acre site. CEQA: Addendum, Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041 adopted November 1, 2011), File No. C15-012.

Action: Ordinance No. 29639 was adopted. (10-0-1. Absent: Carrasco.)

## 2.3 Approval of Council Committee Reports.

- (a) **Neighborhood Services and Education Committee Report of October 8, 2015. (Rocha)**

Documents Filed: (1) Memorandum from Council Member Pierluigi Oliverio, dated November 3, 2015, recommending acceptance of the report and to direct Animal Care Services to explore creating a Cat Café at the main Animal Care Services Facility or at a City owned satellite facility, similar to a community center. (2) The Neighborhood Services and Education Committee Report dated October 8, 2015.

Motion: Council Member Pierluigi Oliverio moved approval of his memorandum dated November 3, 2015, recommending acceptance of the report and to direct Animal Care Services to explore creating a Cat Café at the main Animal Care Services Facility or at a City owned satellite facility, similar to a community center. Council Member Ash Kalra seconded the motion.

Extensive Council discussion ensued.

### **2.3(a) (Cont'd.)**

Council Member Pierluigi Oliverio requested to amend his motion, with direction to Staff to return to Council by the end of the year with a status update. Council Member Ash Kalra accepted the amendment.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed support to the Cat Café but agreed that the idea of creating a Cat Café should go to the Rules and Open Government Committee.

Substitute Motion: Vice Mayor Rose Herrera moved approval to refer the memorandum from Council Member Pierluigi Oliverio to the Rules and Open Government Committee. Council Member Johnny Khamis seconded the motion.

Action: On a call for the question, the substitute motion carried, the Neighborhood Services and Education Committee Report dated October 8, 2015, was approved. The memorandum from Council Member Pierluigi Oliverio, dated November 3, 2015, recommending acceptance of the Staff report and direction to Animal Care Services to explore creating a Cat Café at the main Animal Care Services Facility or at a City owned satellite facility, similar to a community center, was referred to the Rules and Open Government Committee. (6-4-1. Noes: Kalra, Oliverio, Peralez, Rocha. Absent: Carrasco.)

**(b) Rules and Open Government Committee Report of October 14, 2015. (Mayor)**

**(c) Public Safety, Finance, and Strategic Support Committee Report of October 15, 2015. (Oliverio)**

**CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.**

Documents Filed: (1) The Rules and Open Government Committee Report dated October 14, 2015. (2) The Public Safety, Finance and Strategic Support Committee Report dated October 15, 2015.

Action: The Council Committee Reports were approved. (10-0-1. Absent: Carrasco.)

**2.4 Mayor and Council Excused Absence Requests.**  
**There were none.**

**2.5 City Council Travel Reports.**

There were none.

**2.6 Report from the Council Liaison to the Retirement Boards.**

There were none.



- 2.7 **Adopt a resolution authorizing the City Attorney to execute a Second Amendment to the legal services agreement with Hawkins, Delafield & Wood LLP, to modify the initial term of December 1, 2014 through December 1, 2015, to December 1, 2014 through June 20, 2016, to coincide with the fiscal year appropriations which will increase the amount available in the initial term to \$700,000, and to modify the number of option terms from two terms to one term, without increasing the total maximum amount of compensation of \$1,000,000 available under the contract, subject to appropriation of funds by City Council, to support the San José-Santa Clara Regional Wastewater Facility ("RWF") capital improvement program. CEQA: Not a Project. (City Attorney). (City Attorney)**

Action: Deferred to December 1, 2015 per Administration.

- 2.8 **Adopt a resolution authorizing the City Manager or designee to submit grant applications to the California Department of Resources Recycling and Recovery (CalRecycle) for three years (2015, 2016, and 2017) and to enter into grant agreements with CalRecycle if agreements are within the City Manager's existing Council designated contracting authority. CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Environmental Services)**

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated October 22, 2015, recommending adoption of a resolution.

Action: Resolution No. 77571: entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Submit Grant Applications to the California Department of Resources Recycling and Recovery for a Period of Three (3) Years and To Negotiate and Execute Any Documents Necessary to Effectuate the Grants", was adopted. (10-0-1. Absent: Carrasco.)

- 2.9 **As recommended by the Rules and Open Government Committee on October 21, 2015:**

- (a) **Retroactively approve the District 5 Grammercy Neighborhood Resource Fair scheduled on October 24, 2015 as a City Council sponsored Event and approve the expenditure of funds.**
- (b) **Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Carrasco)  
[Rules and Open Government referral 10/21/15 – Item G(1)(a)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 22, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 5 Grammercy Neighborhood Resource Fair scheduled on October 24, 2015 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (10-0-1. Absent: Carrasco.)



**2.10 As recommended by the Rules and Open Government Committee on October 21, 2015:**

- (a) Retroactively approve the East San José Halloween Safety Day scheduled in various areas on October 31, 2015 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Carrasco)  
[Rules and Open Government referral 10/21/15 – Item G(1)(b)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 22, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The East San José Halloween Safety Day scheduled in various areas on October 31, 2015 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (10-0-1. Absent: Carrasco.)

**2.11 Adopt a resolution authorizing the City Manager to:**

- (a) Execute an Open Purchase Order with Irish Construction (Morgan Hill) for Fiber Installation and Perimeter Reinforcement Services at the Norman Y. Mineta San José International Airport, in an amount not to exceed \$606,883.**
- (b) Approve a contingency of \$61,000 and execute change orders for any unforeseen changes or requirements that may arise prior to the completion of services.**

**CEQA: Determination of Consistency with the San José International Airport Master Plan Update Final EIR (Resolution Nos. 67380 and 71451), File No. PP15-053. (Finance)**

**(Deferred from 10/27/15 – Item 2.8)**

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated October 22, 2015, recommending adoption of a resolution.

Action: Resolution No. 77572, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Open Purchase Order with Irish Construction, for Fiber Installation and Perimeter Reinforcement Services at the Norman Y. Mineta San José International Airport”, was adopted. (10-0-1. Absent: Carrasco.)

**END OF CONSENT CALENDAR**

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Adopt a resolution:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Casa Del Pueblo Apartments), Series 2015D” in a principal amount not to exceed \$30,000,000 (“Series 2015D Bonds”).
- (b) Approving a loan of Series 2015D Bond proceeds to Casa Del Pueblo Preservation Limited Partnership, a California limited partnership created by Preservation Partners Development III, L.P, to finance the acquisition and rehabilitation of the Casa Del Pueblo Apartments located at 200 South Market Street in San José.
- (c) Approving in substantially final form the Trust Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Bond Purchase Agreement, and Official Statement (collectively, the “Series 2015D Bond Documents”).
- (d) Authorizing and directing the City Manager, Director of Finance, Assistant Director of Finance, and Interim Director of Housing, or their designees, to execute and deliver the Series 2015D Bond Documents and related Series 2015D Bond documents as necessary.

CEQA: Exempt, Guidelines Section 15061(b)(3), File No. PP15-105. Council District 3. (Housing/Finance)

Action: Deferred to November 10, 2015 per Administration.

## TRANSPORTATION & AVIATION SERVICES

- 6.1 As recommended by the Transportation and Environment Committee on October 5, 2015, accept the report regarding Citywide taxicab regulations and operations of taxicabs and Transportation Network Companies (TNC) at the Airport. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)

[Transportation and Environment Committee referral from 10/5/15 – Item (d)(5)]

Action: Deferred to November 10, 2015 per Administration.

- 6.2 As recommended by the Transportation and Environment Committee on October 5, 2015, accept the Airport staff report and recommendations related to the current status of Transportation Network Companies (TNC) activity at Mineta San José International Airport. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)

[Transportation and Environment Committee referral from 10/5/15 – Item (d)(6)]

Action: Deferred to November 10, 2015 per Administration.



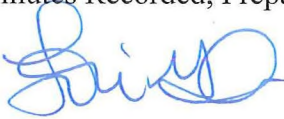
## OPEN FORUM

- (1) David Wall voiced concern that the dog park at Ryland and North San Pedro was being frequented by vagrants and drug dealers, among other issues.
- (2) Blair Beekman urged an open, transparent and democratic process for cell phone towers.

## ADJOURNMENT

The Council of the City of San José was adjourned at 2:44 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

smd/11-03-15 MIN